



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2007

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Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

W.A. Nos.73 and 74 of 2007
and
M.P.Nos.1 and 2 of 2007

M/s Natural Food Products,
rep. By its Partner,
Mr.T.Ravi
Sappayapuram & Post,
Vennandur Via, Tiruchengode Taluk,
Namakkal District.

.. Appellant in both W.As.

-vs-

1. Government of Puducherry,
rep. By Secretary,
Animal Husbandry & Animal Welfare
Department,
Chief Secretariat,
Puducherry.

2. Dept. of Animal Husbandry &
Animal Welfare,
rep. By its Director,
Maraimalai Adigal Salai,
Pudhucherry 605 001.

.. Respondents in both W.As.

Writ Appeals filed under Clause 15 of Letters Patent against the order made in M.P.Nos.2 and 3 of 2006 in W.P.No.47048 of 2006 dated 28.12.2006. filed under Article 226 of the Constitution of India praying for issue of a Writ of certiorarified Mandamus calling for the records of the 2nd Respondent dated 02.12.2006, bearing reference in tender No. G.28011/CR/AHD/2006-2007 Dept. of Animal Husbandry and Animal Welfare quash the same and consequently direct the Respondents to award the contract for supply of cattle feed and calf feed in Tender No. G.28011/CR/AHD/2006-2007 in favour of the petitioner herein as per the recommendation of the tender committee.



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For Appellant : Mr.N.Kannadasan, S.C.
For Mr.M.Suresh Kumar
For Respondents : Mr.K.K.Sashidharan, Spl.G.P. (P)

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeals are directed against the common order of the learned single Judge dated 28.12.2006 made in M.P.Nos.2 and 3 of 2006 in W.P.No.47048 of 2006, in and by which the learned Judge vacated the interim order granted on 05.12.2006 and extended on 14.12.2006.

2. The writ petitioner is the appellant. The appellant/petitioner has filed the writ petition challenging the order of the second respondent dated 02.12.2006 and also prayed for direction to the respondents to award the contract for supply of cattle feed and calf feed in Tender No.G28011/CR/AHD/2006-2007 in their favour.

3. The learned Judge disposed of the miscellaneous petitions and vacated the interim order and the writ petition is still kept pending, hence we are not inclined to go into all the details as stated in the affidavit and counter affidavit by the respective parties.

4. Mr.N.Kannadasan, learned Senior Counsel appearing for the appellant by drawing our attention to various details as well as the terms and conditions of the tender and also the decision/note of the second respondent contented that the first respondent ought to have accepted the offer of the appellant/petitioner and that there is no valid ground for cancelling of the tender. He further contended that in view of the report of the Scrutiny Committee that there is no infirmity in their products and their offer being the lowest among others and taking note of the report of the second respondent, the respondents, particularly the first respondent ought to have considered the offer of the appellant.

5. All the above contentions were put forth before the learned Judge and the learned Judge on consideration of the entire materials including the terms and conditions as well as the report of the Committee and the noting of the second respondent and after finding that the second respondent has only recommended the appellant's tender for approval and it is for the first respondent to take the decision one way or other and in view of the decision



of the first respondent cancelling all the tenders, the same cannot be interfered by this Court exercising jurisdiction under Article 226 and thus vacated interim order granted earlier.

6. We also verified all the relevant materials as pointed out by the learned Senior Counsel for the appellant. It is seen that the Scrutiny Committee came to unanimous conclusion that the whole process suffers from procedural, material and technical defects. Apart from the above information, even the materials furnished by the appellant show that the respondents have not awarded the contract or accepted the offer of any other competitor. Admittedly by the orders of the first respondent, all the tenders were cancelled. As rightly observed by the learned Judge from the materials placed, it cannot be claimed that the appellant was discriminated.

7. Taking note of various aspects, when the respondents decided to cancel the tender, as rightly pointed out by the learned single Judge, it is not for this Court to issue direction to the respondents to accept the offer of the appellant, though lowest among the participants. In the light of the materials placed, we are in entire agreement with the learned Judge. We find no valid ground to entertain the above appeals. It is made clear that the above conclusion of us as well as the learned Judge is only prima facie conclusion for the disposal of the miscellaneous petitions. Both parties are at liberty to project their case in the main writ petition, Inasmuch as the respondents have filed a counter affidavit we are of the view that it is desirable to dispose of the writ petition itself one way or other at an early date. The writ appeals are dismissed with the above observation. No costs. Consequently connected miscellaneous petitions are closed.

Registry is directed to list the main W.P.No.47048 of 2006 before the appropriate Court on 05.02.2007 for final disposal.
Gms

Sd/

Asst.Registrar

/true copy/

Sub Asst.Registrar



To, தலைவர் அவர்கள்

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1. The Secretary, Government of Puducherry,
Animal Husbandry & Animal Welfare Department,
Chief Secretariat, Puducherry.

2. The Director, Dept. of Animal Husbandry & Animal Welfare,
Maraimalai Adigal Salai, Pudhucherry 605 001.

3. The Section Officer, Writ Section, High Court, Madras - 104 (To
Post WP NO. 47048/06 on 05.02.07)

+2ccs to the Special Government Pleader sr no. 380, 3377

GM(Co)
NM(25.01.07)

W.A.Nos.73 and 74 of 2007